

ORDINANCE NO. 2889

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHAPTER 18.54 OF THE CHULA VISTA MUNICIPAL CODE,
RELATING TO FLOODPLAIN REGULATIONS

NOW, THEREFORE, the City Council of the City of Chula Vista does ordain as follows:

SECTION I: That Chapter 18.54 of the Chula Vista Municipal Code is hereby amended to read as follows:

Chapter 18.54

FLOODPLAIN REGULATIONS

Sections:

- 18.54.010 Purpose and intent.
- 18.54.020 Lands to which this chapter applies.
- 18.54.030 Basis for establishing the areas of special flood hazards.
- 18.54.040 Methods of Reducing Flood Losses.
- 18.54.050 Compliance.
- 18.54.060 Abrogation and Greater Restrictions.
- 18.54.070 Interpretation.
- 18.54.080 Warning and Disclaimer of Liability.
- 18.54.090 Severability.
- 18.54.100 Definitions.
- 18.54.110 Floodplain development--Permits required.
- 18.54.120 Floodplain development--Review by City Engineer.
- 18.54.130 Floodplain development--Review by Building Official.
- 18.54.140 Floodplain development--City Engineer action.
- 18.54.150 New water and sewage systems.
- 18.54.160 Alteration or relocation of watercourses.
- 18.54.170 Variance Procedure.
- 18.54.180 Ordinance supersedes any conflicting statutes.

18.54.010 Purpose and Intent.

In order to allow the City to participate in the Federal Flood Insurance Program (National Flood Disaster Protection Act of 1973), it is required that the City adopt regulations controlling the development of property within identified floodplains pursuant to the direction of said Act. The City Council, therefore, assigns to the Building Official and to the City Engineer certain added responsibilities, and they are authorized and directed to enforce all the provisions of this chapter and all other ordinances of the city now in force or hereafter adopted, relating to zoning, subdivision, or building codes. (Ord 2100 §1 (part), 1985; Ord 1842 §1 (part), 1978).

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- a) protect human life and health;

- b) minimize expenditure of public money for costly flood control projects;
- c) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d) minimize prolonged business interruptions;
- e) minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard.
- f) help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
- g) ensure that potential buyers are notified that property is in an area of special flood hazard; and
- h) ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

18.54.020 Lands to which this chapter applies.

The provisions of this Chapter 18.54 shall apply to all areas of special flood hazards, areas of flood-related erosion hazards and areas of mudslide (i.e., mudflow) hazards within the jurisdiction of the City of Chula Vista.

18.54.030 Basis for establishing the areas of special flood hazards.

The areas of special flood hazards identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated June 19, 1997 and accompanying Flood Insurance Rate Maps (FIRMS) and Flood Boundary and Floodway Maps (FBFMs), dated June 19, 1997, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be part of this title. This Flood Insurance Study and attendant mapping is the minimum area of applicability of this title and may be supplemented by studies of other areas which allow implementation of this title and which are recommended to the City Council by the City Engineer. The study and Flood Insurance Rate Maps (Community Panel Numbers 065021 0001-0007) are on file at the City Public Services Building at 276 Fourth Avenue.

18.54.040 Methods of Reducing Flood Losses

- In order to accomplish its purposes, this ordinance includes methods and provisions to:
- A. restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or flood heights or velocities;
 - B. require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - C. control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - D. control filling, grading, dredging, and other development which may increase flood damage; and
 - E. prevent or regulate the construction of flood barriers which will unnaturally divert

- F. flood waters or which may increase flood hazards in other areas.

18.54.050 Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation.

18.54.060 Abrogation and Greater Restrictions.

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

18.54.070 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

- A. considered as minimum requirements;
- B. liberally construed in favor of the governing body; and
- C. deemed neither to limit nor repeal any other powers granted under state statutes.

18.54.080 Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City Council, any officer or employee thereof, the State of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

18.54.090 Severability.

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

18.54.100 Definitions.

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage so as to give this chapter its most reasonable application.

- A. "Area of flood hazard" means areas within the community subject to a one percent or greater chance of flooding in any given year.

- B. "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- C. "Base Flood" means the flood having a 1 percent chance of being equalled or exceeded in any given year.
- D. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.
- E. "Flood" means a temporary rise in a stream's flow or stage that results in water overflowing its banks and inundating areas adjacent to the channel, or an unusual and rapid accumulation of runoff or surface waters from any source.
- F. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- G. "Fraud and victimization" as related to 18.54.170, variances, of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Chula Vista will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.
- H. "Hardship" as related to 18.54.170, variances, of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The City Council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.
- I. "Highest Adjacent Grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- J. "Historic structure" means any structure that is:
 - 1. listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - 2. certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - 3. individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
 - 4. individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or

- directly by the Secretary of the Interior in states without approved programs.
- K. “Lowest Floor” means the lowest of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.
- L. “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. For flood management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailer, and other similar vehicles.
- M. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- N. “One-hundred-year flood” means the condition of flooding having a one percent chance of annual occurrence.
- O. “Public safety and nuisance” as related to 18.54.170, variances, of this ordinance means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.
- P. “Regulatory flood elevation” means the water surface elevation of the one-hundred-year flood.
- Q. “Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. The designated regulatory flood ways are the channels of the Sweetwater River and Telegraph Canyon Creek shown on the current flood boundary and floodway map, and the Otay River and Poggi Canyon Creek as shown on the county of San Diego floodway map.
- R. “Start of Construction” (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Public Law 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets, and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
- S. “Structure” means a walled and roofed structure, including a gas or liquid storage tank that is principally above the ground, including but without limitation to buildings, factories, sheds, cabins, mobile homes and other similar uses.

- T. "Substantial improvement" means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:
1. Before the improvement is started; or
 2. If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration effects the external dimensions of the structure. The term does not, however, include any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations, or structures listed in national or state registers of historic places.

18.54.110 Floodplain development--Permits required.

- A. No person, firm or corporation shall erect, construct, enlarge or improve any building or structure, or begin development within areas of flood hazard in the city or cause the same, including the placement of manufactured homes, to be done without first obtaining a building permit for each such action.
- B. To obtain such a building permit, the applicant shall first file an application therefor in writing with the Building Official on a form furnished for that purpose. Every such application shall:
1. Identify and describe the work to be covered by the permit for which application is made;
 2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building of work;
 3. Indicate the use or occupancy for which the proposed work is intended;
 4. Be accompanied by necessary plans and specifications for the proposed construction showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing;
 5. Be signed by the applicant or the applicant's his authorized agent who may be required to submit evidence to indicate such authority.
 6. Be accompanied by elevations (in relation to sea level) of the lowest floor (including basement) or in the case of floodproofed (as defined in this chapter) nonresidential structures, the elevation to which it has been floodproofed. Documentation or certification of such elevations will be maintained by the Building Official.
 7. Be accompanied by a certification, submitted by a licensed Civil Engineer, Structural Engineer, or Architect, that the plans and specifications for the proposed building or structure comply with the floodproofing requirements of the National Flood Insurance Program as revised. Said licensed Civil Engineer, Structural Engineer or Architect, subsequent to construction of the proposed building or structure but prior to final approval for use or occupancy thereof, shall certify that such building or structure has been so floodproofed and shall specify the elevation to which such floodproofing is effective. This provision is not applicable to manufactured homes.
 8. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located as to prevent

- water from entering or accumulating within the components during conditions of flooding.
9. Give such other information as reasonably may be required by the Building Official and the City Engineer.
- C. In the coastal zone, development in floodplains shall also be required to obtain a coastal development permit consistent with the applicable provisions of the certified Local Coastal Program.

18.54.050 Floodplain development--Review by City Engineer.

The City Engineer shall review all development permit applications to determine if the site of the proposed development is reasonably safe from flooding, that all applicable requirements of the National Flood Insurance Program have been met, and that all necessary permits have been received as required by federal or state law. Copies of such permits shall be required part of permit applications.

STANDARDS FOR SUBDIVISIONS.

- A. All preliminary subdivision proposals shall identify the special flood hazard area and the elevation of the base flood.
- B. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor and provided to the City Engineer.
- C. All subdivision proposals shall be consistent with the need to minimize flood damage.
- D. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- E. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

18.54.130 Floodplain development--Review by Building Official

The Building Official, in reviewing all applications for new construction, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments (as defined in this chapter) shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements, or other development in Zone A on the official map meet the following standards:

1) STANDARDS OF CONSTRUCTION.

In all areas of special flood hazards the following standards are required:

- A. Anchoring
 1. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 2. All manufactured homes shall meet the anchoring standards to the satisfaction of the Building Official.

- B. Construction materials and methods. All new construction and substantial improvement shall be constructed
 1. with flood resistant materials as specified in Federal Emergency Management Agency (FEMA) Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;
 2. using methods and practices that minimize flood damage;
 3. with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and if
 4. within Zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.
- C. Residential structures and substantial improvements of residential structures shall meet the following standards:

The lowest floor elevation (to include basement) of new residential structures shall be elevated to a minimum of one foot above the regulatory flood elevation; except that in zone AO the lowest floor (including basement) shall be as high as the depth number in feet above the highest adjacent grade or two feet if no depth number is specified.

2) STANDARDS FOR UTILITIES.

- A. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 1. infiltration of flood waters into the systems, and
 2. discharge from the systems into flood waters.
- B. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

All design of the project shall be certified by a registered professional in the respective field of expertise.

3) STANDARDS FOR MANUFACTURED HOMES.

- A. All manufactured homes that are placed on or substantially improved within a special flood hazard area as identified on the City's flood insurance rate map and which are:
 1. Outside of a manufactured home park or subdivision; or
 2. In a new manufactured home park or subdivision, or
 3. In an expansion to an existing manufactured home park or subdivision, or
 4. In an existing manufactured home park or subdivision within which a manufactured home has incurred "substantial damage" as the result of a flood.
 5. shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- B. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within a special flood hazard area and not subject to the provisions of Section 18.54.130.3.B.1 will be securely fastened to an

adequately anchored foundation system to resist flotation, collapse, and lateral movement, and shall be elevated so that either:

1. The lowest floor of the manufactured home is at least one foot above the base flood elevation, or
2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.
3. All manufactured homes and associated improvements shall be certified by a registered professional engineer and surveyor.

4) **STANDARDS FOR NON-RESIDENTIAL STRUCTURES.**

- A. The lowest floor elevation (to include basement) of nonresidential structures be elevated or floodproofed to a minimum of one foot above the regulatory flood elevation; except that in zone AO the lowest floor (including basement) shall be as high as the depth number in feet above the highest adjacent grade or two feet if no depth number is specified; or together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- B. Require the use of construction materials and utility equipment that are resistant to floodwater damage;
- C. Require the use of construction methods and practices that will minimize flood damage;
- D. Be designed or anchored to prevent the flotation, collapse or lateral movement of the structure or portions of the structure due to flooding. Said design shall be certified by a registered professional engineer and surveyor;

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings have a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

18.54.140 Floodplain development--City Engineer action.

The City Engineer shall review all subdivision and land development permit applications and shall make findings of fact and assure that:

- A. All such proposed developments are consistent with the need to minimize flood damage;
- B. Proposals for subdivisions and other new development incorporating more than five acres of fifty lots, whichever is lesser, show on tentative parcels maps, tentative subdivision maps or site plans, regulatory flood elevation data for any included area designated zone A, zone A1-30 or zone AO;
- C. Adequate drainage is provided so as to reduce exposure to flood hazards;
- D. All public utilities and facilities are located so as to minimize or eliminate flood damage;

E. The natural landscape of all designated floodways and major watercourses is substantially preserved;

F. An evacuation plan indicating alternate vehicular access and escape routes is filed with appropriate Disaster Preparedness Authorities for manufactured home parks and manufactured home subdivisions located within zone A, zones A1-30 and zone A0;

G. Within zones A1-30, new manufactured home parks and manufactured home subdivisions, expansions to existing manufactured home parks and manufactured home subdivisions, and existing manufactured home parks and manufactured home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced have:

1. Stands or lots elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at least one foot above the base flood level,
2. Adequate surface drainage and access for a hauler, and
3. In the instance of elevation on pilings, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten feet apart, and reinforcement is provided for pilings more than six feet above the ground level;

H. Any encroachments, including fill, new construction, substantial improvements, and other developments within the designated regulatory floodways that would result in any increase in flood levels during the occurrence of a one-hundred-year flood discharge are prohibited.

I. In the coastal zone, the City Engineer shall review all subdivision and land development permit applications and shall recommend to the City Council findings as to whether any proposed subdivision complies with the provisions of the certified Local Coastal Program and the standards of Subsections A-H, above.

18.54.150 New water and sewage systems.

New water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into, floodwaters. Moreover, on-site waste disposal systems will be designed to avoid impairment or contamination during flooding. (Ord 2100 §1 (part), 1985; Ord 1842 §1 (part), 1978).

18.54.160 Alteration or relocation of watercourses.

The City Engineer shall review all plans for alteration or relocation of any watercourse within the City to assure that the flood-carrying capacity of such watercourse is maintained. The City will notify, in riverain situations, affected communities and the state coordinating office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the administrator of the Federal Insurance Administration. Moreover, City Officers will work with appropriate State and Federal agencies in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973. In the coastal, any subdivision that involves the alteration or relocation of a stream shall also conform to the applicable provisions of the certified local coastal program.

18.54.170 Variance Procedure

1) NATURE OF VARIANCES.

The variance criteria set forth in this section of the ordinance are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the City of Chula Vista to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

2) APPEAL BOARD.

A. In passing upon requests for variances, the Board of Appeals and Advisors shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and the

1. danger that materials may be swept onto other lands to the injury of others;
2. danger of life and property due to flooding or erosion damage;
3. susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;
4. importance of the services provided by the proposed facility to the community;
5. necessity to the facility of a waterfront location, where applicable;
6. availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
7. compatibility of the proposed use with existing and anticipated development;
8. relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. safety of access to the property in time of flood for ordinary and emergency vehicles;
10. expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
11. costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

B. Any applicant to whom a variance is granted shall be given written notice over the signature of a Building Official that:

1. the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for every \$100 of insurance coverage, and
2. such construction below the base flood level increases risks to life and property. It is recommended that a copy of the notice shall be recorded by the

Building Official in the office of the County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

C. The Building Official will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

3) CONDITIONS FOR VARIANCES.

A. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in 18.54.030 of this ordinance) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

C. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

D. Variances shall only be issued upon a determination that the variance is the “minimum necessary” considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the Board of Appeals and Advisors need not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the City of Chula Vista believes will both provide relief and preserve the integrity of the local ordinance.

E. Variances shall only be issued upon a:

1. showing of good and sufficient cause;
2. determination that failure to grant the variance would result in exceptional “hardship” (as defined in 18.54.100 of this ordinance) to the applicant; and
3. determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in 18.54.100- see “Public safety or nuisance”), cause fraud or victimization (as defined in 18.54.100) of the public, or conflict with existing local laws or ordinances.

F. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

G. The City of Chula Vista may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

18.54.180 Ordinance supersedes any conflicting statutes.

This chapter shall take precedence over conflicting ordinances or parts of ordinances. The City Council may, from time to time, amend the ordinance codified in this chapter to reflect any and all changes in the National Flood Insurance Program Regulations.

In the coastal zone, where conflicts arise between this ordinance and the certified Local Coastal Program, the latter shall prevail.

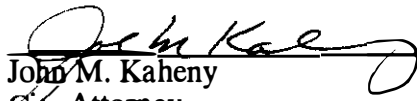
SECTION II: This ordinance shall become effective upon the thirtieth day from and after its second reading and adoption.

Presented by

Approved as to form by



John P. Lippitt
Public Works Director




John M. Kaheny
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 26th day of November, 2002, by the following vote:

AYES: Councilmembers: Davis, Padilla, Rindone, Salas and Horton


NAYS: Councilmembers: None

ABSENT: Councilmembers: None



Shirley Horton, Mayor
Pro Tem

ATTEST:



Susan Bigelow, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)
CITY OF CHULA VISTA)

I, Susan Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 2889 had its first reading at a regular meeting held on the 19th day of November, 2002 and its second reading and adoption at a regular meeting of said City Council held on the 26th day of November, 2002.

Executed this 26th day of November, 2002.



Susan Bigelow, City Clerk